

REMARKS

The foregoing amendments and the following remarks are submitted in response to the communication dated December 18, 2009.

Status of the Claims

Claims 1-7 and 19 are pending and examined in the application. Claims 1, 3, 4 and 5 have above been canceled without prejudice. Claims 2, 6 and 7 have been amended in order to more particularly point out and distinctly claim that which Applicants regard as the invention. In particular, claim 2 has been amended to be independent and to incorporate limitations of claim 1. Support for the amended claims can be found generally through Applicants' specification and in the prior pending and/or as filed claims. In view of the above amendments, claims 2, 6, 7 and 19 are now pending.

With respect to all amendments and canceled claims, Applicant has not dedicated or abandoned any unclaimed subject matter and, moreover, has not acquiesced to any rejections and/or objections made by the Patent Office. Applicant reserves the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications. No new matter is added by the amendment of the claims.

The 35 USC § 112, Second Paragraph, Rejection

Claim 5 has been rejected under 35 USC 112, second paragraph, as indefinite. The Examiner alleges that the language stating that the antigen is at a concentration of 1um to 1pm is meaningless if the antigen is present on the surface of a cell. Applicants respectfully traverse this rejection and point out that claim 5 has above been cancelled, without acquiescing to the Examiner and without prejudice to further or future prosecution. Applicants allege that this rejection is now moot and may properly be withdrawn.

The 35 USC § 112, First Paragraph, Rejection

Claim 5 is rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. The Examiner alleges that, in view of the language stating that the antigen is at a concentration of 1um to 1pm, one of skill in the art would not know how to provide an antigen that is present on the surface of the cell at such a concentration. Applicants respectfully traverse this rejection and point out that claim 5 has above been cancelled, without acquiescing to the Examiner and without prejudice to further or future prosecution. Applicants allege that this rejection is now moot and may properly be withdrawn.

Claim Rejections – 35 USC § 102

The Examiner has rejected claims 1, 3 and 6 under 35 USC 102(b) as being anticipated by Irsch et al (5,786,161, cited on PTO 1449) in light of Lazdunski et al (6,875,599, newly cited). The Examiner alleges that Irsch et al teach a method of isolating B-cells which produce an antibody which recognizes an allergen/antigen, wherein a population of B-cells is contacted with an allergen coupled to a hapten, these incubated so that allergen can bind to cell surface bound antibody/immunoglobulin, and the thus incubated cells are then contacted with avidin coated magnetic beads to which a biotinylated anti-hapten antibody has been complexed. Lazdunski is applied as teaching that the phospholipase A2 allergen from bee venom has 133 amino acid residues. The Examiner utilizes this Lazdunski information to argue that the Irsch et al taught concentration of the allergen digoxigenin conjugate as approximately 0.67 uM, which allegedly meets all of the limitations of claim 1.

Applicants respectfully traverse this rejection. Applicants point out that each of claims 1 and 3 have above been canceled, without acquiescing to the Examiner and without prejudice to further or future prosecution, and claim 6 is now dependent from amended claim 2. Applicants

further point out and assert that independent claim 2, which as above amended is now independent and further incorporates limitations of prior claim 1, is not taught or even suggested by Irsch et al, alone or in combination with Lazdunski et al. Applicants further underscore that the Examiner, in his remarks at page 8 of the prior Office Action, specifically acknowledges and states that the limitations of claim 2 are not shown by Irsch et al. Applicants submit that the claims as presented are not anticipated by Irsch et al, alone or in light of Lazdunski et al.

In view of the foregoing amendments and remarks, Applicants submit that the Examiner's rejection under 35 USC §102 is obviated and hereby request it be withdrawn.

Rejections Under 35 USC § 103

The Examiner has again rejected claims 7 and 19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Irsch et al. (5,786,161, cited on PTO 1449), noted above, alone or in view of Steenbakkers (EP 0,448,470, A1). Irsch et al., is cited above for showing the steps of claim 1, however, the Examiner admits, Irsch does not point out all the steps involved in production of antibodies from the immortalized cells. Steenbakkers, however, is cited as teaching one how to isolate individual B-cell or a population of B-cells that produce an antibody that recognizes an antigen, including the use of magnetic/paramagnetic beads. The Examiner argues that the further steps of culturing, screening, and isolating an antibody from the B-cells selected by the method of Irsch et al would have been obvious to one of skill in the art. Applicants respectfully traverse this rejection. To establish a prima facie case of obviousness, the prior art references must teach or suggest all the claim limitations. Irsch et al, alone or in combination with Steenbakkers does not render claims 7 and 19 obvious, including as now presented. Applicants point out that independent claim 7 has been above amended, without acquiescing to the Examiner and without prejudice to further or future prosecution. In particular, amended claim 7 includes the recitation of prior claim 2 that the contacting of parts i) to iii) are performed simultaneously. The method of Irsch et al, as argued above and even acknowledged

and stated by the Examiner at page 8 of the prior Office Action, does not anticipate, and does not teach or suggest, the elements of the method, and particularly including incubating the

components simultaneously, as presently claimed. Steenbakkers does not add anything to Irsch in this particular regard, and thus, the combination of Irsch et al. and Steenbakkers do not teach or suggest all elements of instant claims 7 and/or 19. Claims 7 and 19 are not anticipated by Irsch et al or made obvious by the combination of Irsch et al and Steenbakkers.

Claims 1, 3-4 and 6 are again rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Irsch et al. (5,786,161, cited on PTO 1449), noted above, in view of Brown et al (WO 2004/051268, Cited in IDS of 6/5/06). Irsch et al. is cited above for showing a method in which the “antigen of interest” carries a hapten and in which the particle bears an anti-hapten antibody. Brown et al is cited as showing a method in which one, likewise, forms a complex in which antigen recognized by an antibody becomes indirectly bound to a particle and this antigen bearing particle is employed in a method of binding antigen-specific B-cells. The Examiner alleges it would have been obvious to use particles with antigen indirectly coupled via antigen-anti-antigen binding (as in Brown et al) in the cell B-cell isolation method of Irsch et al. Applicants respectfully traverse this rejection. To establish a prima facie case of obviousness, the prior art references must teach or suggest all the claim limitations. Applicants point out that each of claims 1, 3 and 4 have above been canceled, without acquiescing to the Examiner and without prejudice, and claim 6 is now dependent from amended claim 2. Applicants further point out and assert that independent claim 2, which as above amended includes all the limitations of prior claim 1 and the limitations of claim 2 is not taught or even suggested by Irsch et al, alone or in combination with Brown et al. Rejected claim 6 is dependent from claim 2 as above amended. Applicants further underscore that the Examiner, in his remarks at page 8 of the prior Office Action, specifically acknowledges and states that the limitations of claim 2 are not shown by Irsch et al. The method of Irsch et al, as argued above, does not anticipate, and does not teach or suggest, the elements of the method, and particularly incubating the components simultaneously, as presently claimed. Brown et al does not add anything to Irsch in

this particular regard, and thus, the combination of Irsch et al. and Brown et al do not teach or suggest all elements of the instant claims.

Claims 7 and 19 are again rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Irsch et al. (5,786,161, cited on PTO 1449), noted above, in view of Brown et al (WO 2004/051268, Cited in IDS of 6/5/06), noted above, and further in view of Steenbakkers (EP 0,448,470, A1, Cited on PTO-892), also noted above. Irsch et al and Brown et al were cited by the Examiner as noted above for allegedly showing that the steps of claim 1 would have been obvious. Steenbakkers teaches that one can isolate individual B-cell or a population of B-cells that produce an antibody that recognize an antigen and then, further, that one can culture, immortalize, further culture, and use the cells to produce antibodies. Applicants respectfully traverse this rejection. To establish a prima facie case of obviousness, the prior art references must teach or suggest all the claim limitations. Irsch et al, alone or in combination with Brown et al does not render the method of the instant claims obvious. Applicants point out that independent claim 7 has been above amended, without acquiescing to the Examiner and without prejudice to further or future prosecution, including to recite the limitations of prior claim 2 that the contacting of parts i) to iii) are performed simultaneously. The method of Irsch et al, as argued above and even acknowledged and stated by the Examiner at page 8 of the prior Office Action, does not anticipate, and does not teach or suggest, the elements of the method, and particularly including incubating the components simultaneously, as presently claimed. Further, neither Brown et al nor Steenbakkers, alone or in combination, serve to add anything to Irsch in this particular regard, and thus, the combination of Irsch et al. with Brown et al, further with Steenbakkers does not teach or suggest all elements of instant claims 7 and/or 19. Claims 7 and 19 are not made obvious by the combination of Irsch et al with Brown et al and further with Steenbakkers.

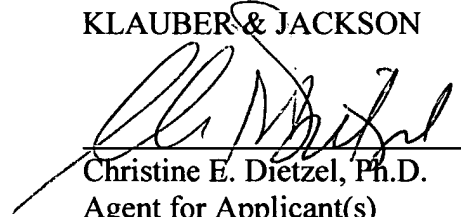
In view of the foregoing amendments and remarks, Applicants submit that the Examiner's rejections under 35 USC § 103 are obviated and hereby request they be withdrawn.

CONCLUSION

Applicants respectfully request entry of the foregoing amendments and remarks in the file history of the instant Application, which are submitted within the initial two (2) month shortened period for response. The Claims as amended are believed to be in condition for allowance, and reconsideration and withdrawal of all of the outstanding rejections is therefore believed in order. Should any outstanding issues or matters remain, the Examiner is invited and requested to contact the undersigned as noted below in order to effect their resolution. Early and favorable action on the claims is earnestly solicited.

Respectfully submitted,

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